

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

CHARLES TOWNSLEY, <i>et al.</i> ,)	
)	
Plaintiffs,)	
v.)	Case No. 1:20-cv-00969-DAE
)	
INTERNATIONAL BUSINESS)	
MACHINES CORPORATION,)	
)	
Defendant.)	

**DEFENDANT INTERNATIONAL BUSINESS MACHINES CORPORATION'S
REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE EXPERT REPORT AND
TESTIMONY OF MARK RAMBIN**

EXHIBIT 2

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)	
Plaintiffs,)	
v.)	Case No. 1:20-cv-00969-DAE
)	
INTERNATIONAL BUSINESS)	
MACHINES CORPORATION,)	
)	
Defendant.)	

DECLARATION OF DR. DWIGHT STEWARD

I, Dwight Steward, declare and state as follows:

1. I am over 18 years of age and am otherwise competent to make this declaration. I am an economist and have been retained by International Business Machines Corporation (“IBM” or “Company”) to perform an economic and labor market analysis in the above-referenced lawsuit.
2. I authored the book titled “Economic Losses and Mitigation after an Employment Termination: Theory Applications and Case Studies” (the “Book”). This Book was published on January 22, 2022 and was cited by Plaintiffs in their Response to IBM’s Motion to Exclude. My understanding is that Plaintiffs argue that my Book supports the methodology used by Mr. Rambin’s to calculate the salary fringe benefits multiplier used by him in his expert reports.
3. As is explained in my Book, in order to determine the salary fringe benefits multiplier, the proper methodology is to divide the yearly value of *non-wage* fringe benefits by the individual’s yearly wages and salary. Wage-related fringe benefits are not to be included in the calculation.
4. The reason that wage-related benefits (such as paid leave and supplemental pay) are excluded from the yearly fringe benefits calculation is because they are a component of an individual’s overall salary—meaning that including these amounts in the salary fringe benefits

multiplier would result in such amounts being double counted as salary and an employer-provided fringe benefit.

5. Mr. Rambin's original Expert Report and Supplemental Report does not properly employ the methodology discussed in my Book in his calculation of the salary fringe benefits multiplier because he incorrectly includes the cost of supplemental pay and paid leave (which are wage-related benefits) in his calculation.

6. Applying the methodology from my Book to the data and tables referenced by Mr. Rambin, he should have removed the cost of supplemental pay and paid leave from his calculation of total benefits to determine the cost of non-wage fringe benefits. After doing this, Mr. Rambin should have then taken the cost of non-wage fringe benefits and divided it by the total wages and salary for the salary fringe benefits multiplier.

7. This Declaration is solely intended to explain how Mr. Rambin, based on the data and charts he utilized and contrary to Plaintiffs' Response, did not employ the methodology from my Book in forming his opinions.

My full name is Dwight Steward, and my work address is 1920 E. Riverside Dr., Suite A-120 #260, Austin, Texas 78741.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County, State of Texas, on the 24th day of June, 2022.

Signed: _____


DWIGHT STEWARD